



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

PABLO HERNANDEZ GONZALES,  
TDCJ-CID NO. 1076456,  
Petitioner,

V.

DOUGLAS DRETKE, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,  
Respondent.








CIVIL ACTION NO. H-05-686

### OPINION ON DISMISSAL

Petitioner has filed an application for a writ of habeas corpus under 28 U.S.C. § 2554 (Docket Entry No.1) and an application to proceed *in forma pauperis*. (Docket Entry No.2). On August 17, 2005, the court denied petitioner's application to proceed *in forma pauperis* and ordered him to pay the \$5.00 filing fee. (Docket Entry No.8). Petitioner, however, has not responded to the court order entered on August 18, 2005, directing him to submit to the Clerk within thirty days a money order or check for \$5.00 issued by the prison unit on his behalf from funds found in his inmate trust fund account. (Docket Entry No.8). Petitioner's deadline to respond has long since expired and he has failed to comply. The court's order specifically provided that "[f]ailure to comply as directed may result in dismissal of this action." Petitioner's failure to pursue this action forces the court to conclude that he lacks due diligence.

Therefore, under the inherent powers necessarily vested in a court to manage its own affairs, this court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995). The petitioner is advised,

however, that upon a proper showing, relief from this order may be granted in accordance with Rule 60(b) of the Federal Rules of Civil Procedure.

Accordingly, it is ORDERED that this action be DISMISSED without prejudice for want of prosecution.

The Clerk shall provide a copy of this order to the petitioner

SIGNED at Houston, Texas, on this 18<sup>th</sup> day of October, 2005.

  
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MELINDA HARMON  
UNITED STATES DISTRICT JUDGE